IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 2313 OF 2003

IN

CRIMINAL APPEAL NO. 21 OF 2003

The State of Maharashtra .. Applicant

Versus

Dwarikaprasad Sitaram Mishra & ors..Respondents

..

Mr.A.M.Shringarpure A.P.P. for Applicant

Mr.P.M.Pradhan for Respondent nos. 1 to 3.

CORAM : V.M.KANADE, J

DATE: 12TH OCTOBER, 2004.

P.C.:

1. Heard learned A.P.P. appearing on behalf of the State and learned counsel appearing on behalf of the respondents.

2. Learned counsel for the respondents vehemently opposes the grant of condonation of delay. He submitted that sufficient cause has not been stated in the application for condoning the delay. It is submitted that substantial right is created in favour of the accused if delay is caused. One of the accused has also filed reply to the application for condonation of delay. The applicant has stated that the order was passed by the trial Court on 23rd May 2002 and application for certified copy was made on the same day. However, it was received and delivered on 7th June, 2002. Thereafter, papers were submitted to the Law and Judiciary Department on 12th July, 2002. The proposal was scrutinised and resolution was passed thereafter on 21st September, 2002. Papers were received in the office of the Public Prosecutor, High Court, Mumbai on 25th September, 2002 and

thereafter appeal was filed on 8th January 2003. It is submitted that therefore delay was caused on account of procedure which is required to be followed in such cases. In my view, cause shown is sufficient for condoning the delay. Delay is condoned. Criminal Application No. 2313 of 2003 is allowed. Call for record and proceedings. Within three weeks office to inform the J.M.F.C.II Court, Thane to send the record expeditiously.

V.M.KANADE, J